IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 18TH JANUARY 2007 / 28TH PAUSHA 1928

MACA.No. 729 of 2005(D)

OPMV.749/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THODUPUZHA
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APPELLANT/PETITIONER:

JOHNY, S/O. THOMAS,
VATTAKATTIL HOUSE, ASHOKA KAVALA BHAGAM,
THADIYAMPADU KARA, IDUKKI VILLAGE.

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

RESPONDENTS: RESPONDENTS:
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1. SHAJI P.T.,
PUNNAKUZHIYIL HOUSE, IDUKKI COLONY P.O., IDUKKI.

2. IYPE SCARIA,
THADATHIL HOUSE, IDUKKI COLONY P.O., IDUKKI.

3. NATIONAL INSURANCE CO. LTD., THODUPUZHA.

BY ADV. SRI.MATHEWS JACOB (SR.)
SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME FOR ADMISSION ON 18/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

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M.A.C.A. NO. 729 OF 2005

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Dated this the 18th day of January, 2007.

J U D G M E N T

Krishnan,J.

This is an appeal preferred against the award of the Motor Accidents Claims Tribunal, Thodupuzha in O.P.(MV) 749/99. The petitioner aged 26 years sustained serious injuries in a road accident as a result of which he had become a paraplegic and the Medical Board had certified his disability at 90%. The Tribunal, on a consideration of the entire materials awarded a total compensation of Rs.5,02,300/-. It is against that decision the present appeal is preferred.

2. The learned counsel for the appellant would contend that though the permanent disability is fixed at 90% by the Medical Board, for practical purposes he is a vegetable and so his disability should be taken as 100%. It is also contended by him that the claimant was aged 26 years at the time of the accident and being a quarry worker, the Tribunal should have taken a

reasonable income Rs.3,750/-. On an anxious consideration of the entire materials, we find that a quarry worker would get at least Rs.2000/- per month. Similarly, the contention of the learned counsel for the appellant that the disability should be taken as 100% has to be accepted for the reason that he cannot move at all and he is a total paraplegic. Therefore, the disability can be calculated on the basis of 100%. If it is so, the annual loss of income would come to Rs.24,000/- and applying a multiplier of 18 for the age of group of 25 to 30, the total disability compensation would be Rs.4,32,000/-. The Tribunal has awarded a total compensation Rs.2,91,600/-. So, the claimant is entitled to an additional compensation of Rs.1,40,400/- under that head. So far as other heads are concerned the Tribunal has considered all the materials available and awarded a just and reasonable compensation.

In the result, the M.A.C.A. is partly allowed and the claimant is awarded an additional compensation of Rs.1,40,400/- with 7% interest on the said sum from the date of petition till realisation

and the Insurance Company is directed to deposit the same within a period of two months from the date of receipt of a copy of this judgment.

K.S. RADHAKRISHNAN, JUDGE.

M.N. KRISHNAN, JUDGE.

ul/-